

Shell Oil Company

Legal Services P O Box 2463 Housian TX 77252-2463 United States of America Tel +1 713 241 5403 Fax +1 713 241 1444 Email Kim.Lesniak@Shell.com Internet http://www.shell.com

December 7, 2012

VIA OVERNIGHT MAIL

U. S. Environmental Protection Agency, Region 5 Superfund Division, Enforcement and Compliance Assurance Branch Attn.: Marsha A. Adams, Enforcement Specialist

77 West Jackson Boulevard, (SE-5J)

Chicago, Illinois 60604-3590

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West Troy Contaminated Aquifer Site, Troy, Ohio,

CERCLIS ID No: OHN000508132

Response of Pennzoil-Quaker State Company to EPA's

CERCLA 104(e) Information Request

Dear Ms. Adams:

This letter, with attachments, is the response of Pennzoil-Quaker State Company ("PQS") to the above-captioned Information Request from the EPA Region 5 Office, dated October 30, 2012 and received by this office on November 9, 2012. Stuart Hersh, Assistant Regional Counsel with the EPA granted POS a response date of December 10, 2012.

In 1998, Quaker State merged with Pennzoil to form Pennzoil-Ouaker State Company. The Pennzoil-Quaker State Company became a wholly owned subsidiary of Shell Oil Company in 2002. Records transferred to Shell's possession were usually accessible by a specific location name or specific address. Since these questions inquire into circumstances and matters which occurred during a time period considerably outside of Shell's/PQS's normal document retention policy, it is likely that there would be little or no documentation which would provide assistance in developing a response.

As an initial matter, PQS has attempted in good faith to respond to the Information Request to the extent that it seeks information authorized by 42 U.S.C. §9604(e)(2) but objects generally to the Information Request on the following grounds:

1. PQS objects generally to the Information Request on the ground that it is overly broad, seeking information not authorized by statute. Section 104(e)(2) of CERCLA, 42 U.S.C. §9604(e)(2) identifies three, and only three, categories of information that a duly

designated representative of the President may seek from any person to the unilateral administrative process authorized by that provision. Some of the information sought by this Information Request is outside those categories.

- 2. POS objects generally to the instructions, definitions and questions contained in the Information Request on the grounds that they are irrelevant, vague, unduly burdensome, unreasonably broad, and an abuse of discretion, or arbitrary and capricious.
- 3. POS objects generally to the requirement that POS furnish a Certification of Answers to the Request for Information in the form provided as overbroad. Notwithstanding the above and without waiving this objection, an appropriate Certification is enclosed as Attachment A. .

To briefly summarize this response, PQS has not located any information that in any way suggests that POS owned, operated or leased any facility within the area identified as the West Troy Contaminated Aquifer Site in Troy, Ohio. PQS has identified information indicating two independent third party distributors, whose addresses appear to be located within the identified site area, participated in a business development fund program. In general, the arrangement involved POS assisting in funding for these companies to secure equipment in exchange for a requirement that the independent third party distributor purchase specific annual quantities of PQS motor oil and other lubricant products for use and resale.

PQS's response to the Information Request is attached.

Kimberly Lisniak

Very truly yours,

Kimberly Lesniak

Senior Legal Counsel

Attachments

ENCLOSURE 4

QUESTIONS

QUESTION NO. 1:

State the dates during which you or your company have owned, operated, or leased a facility or any part thereof located within the area of interest at the Site as illustrated on the map in Enclosure 6, and provide copies of all documents evidencing or relating to such ownership, operation, or lease arrangement (e.g. including but not limited to purchase and sale agreements, deeds, or leases).

RESPONSE TO QUESTION NO. 1:

PQS has not located any information that in any way suggests that PQS owned, operated or leased any facility within the area identified as the West Troy Contaminated Aquifer Site in Troy, Ohio.

PQS has identified information indicating two independent third party distributors, whose addresses appear to be located within the identified site area (see documents provided as Attachment B), participated in a business development fund program. In general, the agreements dated 1995 and 1996, involved PQS assisting in funding for these companies to secure equipment in exchange for a requirement that the independent third party distributor purchase specific annual quantities of PQS motor oil and other lubricant products for use and resale.

OUESTION NO. 2:

Did you or any other person or entity ever use, purchase, store, treat, dispose, transport or otherwise handle any material containing chlorinated solvents, including but not limited to tetrachloroethene (PCE), trichloroethene (TCE), cis-1,2-dichloroethene (DCE), and 1,1,1-trichloroethane (TCA), at a facility within the boundaries of the Site? If the answer to this question is anything but an unqualified "no," with respect to each facility identify:

- a) the chemical composition, characteristics, physical state (e.g., solid, liquid) of each material;
- b) who supplied the material;
- how, when, and where the material was used, purchased, generated, stored, treated, transported, disposal of or otherwise handled;
- d) the quantity of such materials used, purchased, generated, stored, treated, transported, disposed of or otherwise handled;
- e) all supervisory personnel for areas where chlorinated solvents were identified above. For all persons identified, indicate the years during which they were a supervisory and, to the best of your knowledge and belief, their duties and responsibilities.

RESPONSE TO QUESTION NO. 2:

No. As stated previously, the only PQS documentation found indicated two independent third party distributors, whose addresses appear to be located within the identified site area participated in a business development fund program. This limited business arrangement involved PQS assisting in funding for these companies to secure equipment in exchange for a requirement that the independent third party distributor purchase specific annual quantities of PQS motor oil and other lubricant products for use and resale. The motor oil and other lubricant products, such as automotive transmission fluid and grease, were and are petroleum products, and therefore, not "hazardous substances" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

QUESTION NO. 3:

Identify all past and present solid waste management units (e.g., waste piles, landfills, surface impoundments, waste lagoons, waste ponds or pits, tanks, or container storage areas,) at each facility you or your company have owned, operated, or leased within the area of interest at the Site. For each such solid waste management unit, provide the following information:

a) A map that shows the unit's boundaries and the location of all known solid waste management units, whether currently in operation or not.

This map should be drawn to scale, if possible, and clearly indicate the location and size of all past and present units;

- b) The type of unit (e.g., storage area, landfill, or waste pile) and the dimensions of the unit;
- c) the dates that the unit was in use;
- d) the purpose and past usage of the unit (e.g., storage or spill containment);
- e) the quantity and types of materials (hazardous substances and any other chemicals) located in the unit;
- f) the construction (materials, composition), volume, size, dates of cleaning, and condition of the unit; and
- g) if unit if no longer in use, describe how was unit was closed and what actions were taken to prevent or address potential or actual releases of waste constituents from the unit.

RESPONSE TO QUESTION NO. 3:

None identified. As previously stated, PQS has not identified any information which would indicate that it owned, operated or leased any facility within the site area.

It appears that any tanks involved in the previously described agreements with the independent third party distributors were to be used to store virgin petroleum product for use or resale, not to be used as any type of solid waste management unit.

QUESTION NO. 4:

Identify all leaks, spills, or releases into the environment of any chlorinated solvents or materials containing chlorinated solvents that have occurred at or from any facility you or your company have owned, operated, or leased within the boundaries of the Site. In addition, identify:

- a) when, where, and how such leaks, spills or releases occurred;
- b) the amount of each leak, spill or release;
- c) activities undertaken in response to each such leak, spill or release, including the notification of any agencies or governmental units;
- d) investigations of the circumstances, nature, extent or location of each leak, spill or release, including the results of any soil, water (ground and surface), or air testing undertaken; and
- e) all persons with information relating to these leaks, spills or releases.

RESPONSE TO QUESTION NO. 4:

None identified. See Response to Question No. 2.

QUESTION NO. 5:

Provide copies of all local, state, and federal environmental permits ever granted for any facility (or any part thereof) you or your company have owned, operated, or leased within the boundaries of the Site (e.g., RCRA permits or NPDES permits).

RESPONSE TO QUESTION NO. 5:

None identified.

QUESTION NO. 6:

Identify any persons or entities, other than those responding to this information request, that may have information about the history, use, purchase, storage, treatment, disposal, transportation or handling of any materials containing chlorinated solvents at any facilities in the area of interest at the Site.

RESPONSE TO QUESTION NO. 6:

See Attachment B.

QUESTION NO. 7:

To the extent you believe that another person, including any previous property owner, is responsible for any leaks, spills or releases into the environment of any chlorinated solvents or materials containing chlorinated solvents at or from any facility you or your company have owned, operated, or leased within the area of interest at the Site, identify:

- a) the name and address of that person or persons;
- b) when, where, and how such leaks, spills or releases occurred;
- c) the amount of each leak, spill or release; and
- d) the detailed basis for your belief that each such person is responsible for leaks, spills or releases, including any transactional documents, reports, or other documentation supporting your belief.

RESPONSE TO QUESTION NO. 7:

See Attachment B.

ATTACHMENT A

DECLARATION OF VIET T. VAN

IN SUPPORT OF

PENNZOIL-QUAKER STATE COMPANY'S DECEMBER 7, 2012 RESPONSE TO EPA'S REQUEST FOR INFORMATION REGARDING THE WEST TROY CONTAMINATED AQUIFER SITE, TROY, OHIO

I, Viet T. Van, certify that I am authorized to complete this declaration on behalf of Pennzoil-Quaker State Company (dba SOPUS Products). I certify that Pennzoil-Quaker State Company (dba SOPUS Products) conducted a good faith search for all records, documents or other information in the possession or control of Pennzoil-Quaker State Company (dba SOPUS Products) to obtain all information responsive to this information request, including discussions with persons who have or may have knowledge about these matters. I declare, under penalty of perjury, that the information submitted in response to this information request is true, accurate, and complete to the best of my knowledge, information and belief and based on reasonable inquiry of the persons responsible for collecting the information and preparing the response.

Signature:

Viet T Van

Vice President-Supply Chain Operations

Pennzoil-Quaker State Company (dba SOPUS Products)

700 Milam Street

Houston, Texas 77002

Executed on:

Date

ATTACHMENT B



QUAKER STATE CORPORATION LUBRICATION EQUIPMENT LOAN AND SUPPLY AGREEMENT

AUG | 4 1995

YORTHERN REGION

<2500

This	Agreement is made and entered into this 18th day of July , 1995 by and
oetween	Quaker State Corporation of Oil City, Pennsylvania, hereinafter called "Quaker State"
	AND
	Computer Tune
	610 North Market Street, Troy, Ohio 45373
nereinafi	er called "Borrower."
In co	insideration of the mutual promises set forth herein, Quaker State and Borrower agree as follows:
1.	This Agreement shall become effective upon the execution hereof and shall continue for a period of five years from the date hereof. This Agreement shall thereafter renew automatically for successive one year periods until either party gives written notice to the other party of intent to terminate at the end of any renewal term at least 60 days prior to the date of termination.
2.	Quaker State agrees to loan Borrower, at no charge, the equipment listed on attached Exhibit 1 (the "Equipment").
	The equipment shall be located at the following address: 610 North Market Street Troy, Ohio 45373
3.	The equipment shall be labeled with Quaker State decals provided by Quaker State. Borrower agrees to display Quaker State identification in prominent locations in its service and customer waiting areas, throughout the term of this Agreement.
4.	Borrower agrees to purchase from Quaker State or Quaker State's designee, at applicable prices and terms established
	by Quaker State or its designee from time to time, at least One Thousand One Hundred
	(1,100) gallons of motor oils, ATF, gear oils and greases
	during each twelve month period during the term hereof for resale at the location listed above. For purposes of this requirement, seven and one-half pounds (7.5 Lbs.) of grease shall be equivalent to one (1) gallon of motor oil.
5.	The Equipment shall be used solely for the dispensing and storage of Quaker State products.
6.	This Agreement is intended to be a true lease, and not a conditional sales agreement or security device. Borrower shall acquire no equity in the Equipment. However, should this transaction be construed otherwise, Borrower hereby grants to Quaker State a security interest under the Uniform Commercial Code in and to all of the Equipment, all proceeds thereof and accessions thereto and hereby appoints Quaker State as Borrower's attorney-in-fact to do all things necessary to perfect and continue perfected the security interest granted herein.
7.	Borrower shall, at its sole expense, maintain and keep the Equipment in good repair and operating condition, and shall comply with any law or regulation that requires the registration of any storage tanks included in the Equipment or shall reimburse Quaker State all costs of such registration.
8.	Borrower shall keep the Equipment free and clear of all liens, encumbrances, pledges and security interests and will not permit the Equipment to be removed from the location listed in section 2.
9 .	Risk of loss, damage to, or destruction of the Equipment is at all times on the Borrower.
10.	Quaker State reserves the right to require Borrower to însure the Equipment against such risks and in such amounts as Quaker State shall require and to reimburse Quaker State for the payment of all federal, state and local taxes levied upon the Equipment.
11:	If Borrower shall default in the performance of any covenant hereunder, Quaker State, at its sole option, may require Borrower to assemble the Equipment and make it available to Quaker State at a place to be designated by Quaker State which is reasonably convenient to both parties, or may declare payable either the Equipment's original value, including all

WHITE COPY - Corporate CANARY COPY - Borrower PINK COPY - Distributor GOLDENROD COPY

costs of installation and removal, or the then fair market value of the equipment as mutually agreed by Quaker State and

Upon expiration of the term of this Agreement pursuant to paragraph one (1) hereof, Quaker State, at its option, may leave the Equipment with the Borrower (thereby passing title to the Equipment to Borrower AS IS) or may require Borrower to assemble the Equipment and permit Quaker State to enter upon Borrower's business premises set forth above to re-take

Borrower and Borrower shall immediately upon demand pay said sum elected by Quaker State to Quaker State.

Page 1 of 2 LELSA-91

possession of the Equipment.

(continued on page 2 of 2 LELSA-91)

- 13. Borrower agrees that its rights and duties provided hereunder shall not be assigned or delegated without the prior written approval of Quaker State, but this Agreement shall be binding upon and inure to the successors of either party.
- 14. This Agreement constitutes the complete and final agreement of Borrower and Quaker State related to the subject matter hereof and shall not be modified by any means whatsoever, except by a writing duly executed by both parties hereto.
- 15. It is acknowledged that Quaker State is not the manufacturer of the equipment and makes no warranties, express or implied, with respect to the equipment and EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above set forth.

THIS DOCUMENT SHALL NOT CONSTITUTE A BINDING CONTRACT UNTIL SIGNED BY A DULY AUTHORIZED OFFICER OF QUAKER STATE.

QUAKER STATE CORPORATION
By: Ammun All 8/24
W. E. Marshall
Title: Regional Manager
•
BORROWER
Computer Tune
(Company Name)
By: D. W. asher
& Gam Ada
Print Name: 6 Dell 115her
Title: President
1111

The undersigned hereby guarantees Borrower's payment and performance of all of Borrower's obligations under the foregoing Agreement. In the event of default by Borrower, the undersigned agrees, immediately upon written notice from Quaker State, to remit all sums owed by Borrower or to cure such default in performance by Borrower, as the case may be.

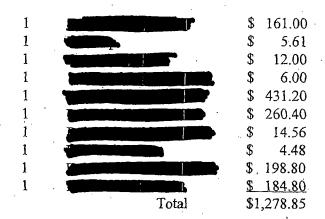
(Distributor signature)





Exhibit "A"

Computer Tune 610 North Market Street Troy, Ohio 45373



PENNZOIL PRODUCTS COMPANY

DISTRIBUTOR PROMISSORY NOTE

DATE: 4-26-96	PRINCIPAL AMOUNT: \$
GALLON CREDIT: \$. 23	LOAN NO:

FOR VALUE RECEIVED, the undersigned, hereinafter referred to as "Maker", whether one or more, promises to pay to the order of PENNZOIL PRODUCTS COMPANY, a Nevada corporation, or any subsequent holder hereof (collectively, "Payee"), at P. O. Box 2967, Houston, Texas 77252-2967, or at such other address as the Payee may from time to time designate in writing to Maker, in lawful money of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, the Principal Amount set forth above.

The following definitions shall be applicable to this Note:

- 1. <u>Annual Purchase Requirement</u> shall mean the quantity of the Products (expressed in gallons) to be purchased annually by Third Party from Maker or Payee, which quantity has been agreed to by Third Party pursuant to separate agreements between Maker and Third Party.
- 2. <u>Products</u> shall mean the branded motor oil and automatic transmission fluid manufactured, marketed and sold by Payee or, as applicable, distributed by Maker on behalf of Payee.
- 3. <u>Purchase Term</u> shall mean the total number of years during with Third Party has committed, under its agreements with Maker, to make the Annual Purchase Requirement.
- 4. Third Party shall mean Auto Lube of Troy Troy of to whom Maker, under separate agreement, has loaned various pieces of equipment in exchange for Third Party's agreement to make the Annual Purchase Requirement.
- 5. Third Party Facility shall mean the location(s) at which the equipment loaned by Maker to Third Party will be located during the Purchase Term and at which Third Party has agreed to resell the Products being purchased as part of the Annual Purchase Requirement.

Repayment of this Note shall be made by Maker through the accumulation of Gallon Credits, which Gallon Credits shall be earned by Maker for each gallon of Products purchased by Third Party during the Purchase Term. On each anniversary date of this Note, Payee shall credit the then outstanding Principal Amount with the number of Gallon Credits corresponding to the actual number of gallons of Products purchased by Third Party during the annual period immediately preceding the specific anniversary date. For purposes of this Note, the term "annual period" shall mean a period of twelve (12) consecutive months beginning on the first day of the month after the month in which this Note is executed by Maker and ending on the last day of the twelfth (12th) consecutive month thereafter.

Page 1 of a 5 Page Promissory Note

Initialed for Identification

Maker shall be considered to be in default under the provisions of this Note if:

(A) Upon any anniversary date of this Note, the actual number of gallons of Products purchased by Third Party for the preceding annual period(s) shall be less than eighty-five percent (85%) of the cumulative Annual Purchase Requirement for the same annual period(s). If an event of default shall occur under this subparagraph (A), Payee shall give Maker notice of such default and require that Maker cure such default within no less than thirty (30) days of such notice. Upon Maker's receipt of the aforementioned notice, Maker, at its option, may:

- 1. Pay to Payee an amount equal to the then remaining outstanding Principal Amount of the Note in full and final satisfaction of its obligations hereunder;
- 2. If the actual number of gallons of Products purchased by Third Party for the preceding annual period(s) is greater than or equal to sixty percent (60%), but less than eighty-five percent (85%), of the cumulative Annual Purchase Requirement for the same annual period(s), Maker may exercise the following option:
 - a. Recalculate the Annual Purchase Requirement for the balance of the Purchase Term by calculating the total number of gallons purchased by Third Party for the preceding annual period(s) (including the annual period during which the default occurred) and dividing such number by the number of such annual period(s), which number shall thereafter be the Annual Purchase Requirement applicable to this Note; and
 - b. Reduce the then outstanding Principal Amount of the Note by an amount equal to the difference between the cumulative Annual Purchase Requirement for the Purchase Term (existing prior to the recalculation set forth in subparagraph a above) and the cumulative Annual Purchase Requirement for the Purchase Term calculated under subparagraph a above, multiplied by the Gallon Credit; or
- 3. If the default under this Note is the <u>first</u> such default by Maker and the actual number of gallons of Products purchased by Third Party for the preceding annual period(s) is greater than or equal to sixty percent (60%), but less than eighty-five percent (85%), of the cumulative Annual Purchase Requirement for the same annual period(s), Maker may extend the repayment of this Note in accordance with the following provisions:
 - a. The Annual Purchase Requirement shall be modified to be equal to the actual quantity of Products purchased by Third Party during the annual period in which the default occurred, which actual quantity will thereafter be considered to be the Annual Purchase Requirement for the remaining Purchase Term (as such Purchase Term is to be modified under subparagraph b. below).
 - b. The Purchase Term shall be extended by the number of years (rounded up to the next highest whole number) resulting from a fraction, the numerator of which shall be the difference between the total number of gallons represented by the original cumulative Annual Purchase Requirements for the Purchase Term and the actual number of gallons of Products purchased by Third Party for the annual period(s) preceding the default (inclusive of the annual period during which such default occurred), and the denominator of which shall be the Annual Purchase Requirement calculated under subparagraph a. above.

Page 2 of a 5 Page Promissory Note may audit Maker's records to confirm the amount of Gallon Credits owed to Maker and the compliance by Third Party with its purchase obligations.

After maturity, the then outstanding Principal Amount (which sum shall be due and payable in full) shall bear interest at the Maximum Lawful Rate. In the event that any required payment is not paid as required herein but is thereafter paid, Maker shall pay a late charge for said payment in the amount of five percent (5%) of the delinquent payment, but in no event in excess of the Maximum Lawful Rate, which late charge shall be due and payable without demand by Payee when said late payment is made, and shall be compensation to Payee for the increased expense and inconvenience of handling late payments.

The Maker and any signers, sureties, guarantors and endorsers of this Note severally waive demand, presentment, note of dishonor, notice of acceleration of maturity, notice of intent to demand and/or notice of intent to accelerate payment or maturity hereof, diligence in collecting, grace, notice, and protest, and agree to one or more extensions for any period or periods of time and partial payments, before or after maturity, without prejudice to the holder hereof to the extent herein provided.

If this Note is not paid when due, whether at maturity or by acceleration, or if it is placed with an attorney for collection through a bankruptcy, probate or other court, whether before or after maturity, Maker agrees to pay all costs of collection, including, but not limited to, attorneys' fees and expenses incurred by the holder hereof.

Should this Note be signed by more than one party, all of the obligations herein contained shall be the joint and several obligations of each signer hereof.

The Principal Amount of this Note will be or has been used for business, commercial, investment or other similar purposes and no portion thereof will be used for personal, family or household use. Maker has requested the loan of the Principal Amount for the purpose of purchasing certain equipment to be loaned to Third Party for the operation of Third Party's business located at Third Party's Facility.

THIS NOTE MAY BE PREPAID, in whole or in part, at any time or from time to time without premium or penalty.

All agreements between Maker and Payee, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand for payment or acceleration of the maturity hereof or otherwise, shall the interest contracted for, charged or received by Pavee exceed the Maximum Lawful Rate; and if from any circumstance Payee shall ever receive anything of value deemed interest by applicable law in excess of the Maximum Lawful Rate, an amount equal to any excessive interest exceeds the unpaid balance of principal hereof, such excess shall be refunded to Maker. All interest paid or agreed to be paid to Payee shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension hereof) so that the interest hereon for such full period shall not exceed the Maximum Lawful Rate. For purposes of this Note, Maker agrees that the Maximum Lawful Rate shall be the "indicated rate ceiling" or applicable interest ceiling defined or otherwise indicated under the applicable laws of the jurisdiction wherein Maker resides, as any such law or laws may from time to time be amended; provided, however, that to the extent permitted by applicable law, Payee may also rely on alternative maximum rates of interest under other applicable laws if such laws permit greater interest. This paragraph shall control all agreements between Maker and Payee, or any subsequent holder hereof.

Any notice permitted or required to be given by the holder hereof to Maker shall be sent to Maker by depositing the same with the United States Postal Service, certified mail, return

Page 4 of a 5 Page Promissory Note Initialed for Identification

After the Annual Purchase Requirement and the Purchase Term have been modified in accordance with subparagraphs 2. or 3. above, Payee and Maker will execute a document, similar in form to the document attach hereto as Exhibit A, indicating and confirming the modification of the respective provisions of this Note; or

(B) Third Party has committed to purchase Payee's branded filters (both air and oil) from Maker and Third Party has failed, during any annual period, to purchase at least eighty-five percent (85%) of its filter commitment. In the event of a default under this Subparagraph (B), Maker shall repay to Payee an amount equal to the then applicable Annual Purchase Requirement multiplied by \$0.25.

Notwithstanding the foregoing provisions, at the option of Payee, the entire principal balance of this Note shall at once become due and payable without notice or demand upon the occurrence at any time of any of the following events (collectively, "events of default"):

- 1. Default by Maker in the performance of any obligations to Payee under the Security Agreement (hereinafter defined) or any other documents executed by Maker in favor of Payee.
- 2. The liquidation, termination, dissolution or death (if Maker is an individual) of Maker or the death or legal incapacity of any guarantor.
- 3. The voluntary bankruptcy of, the assignment for the benefit of creditors by, or the appointment of a receiver for, any of the property of any party liable for the payment of this Note, whether as Maker, endorser, guarantor, surety or otherwise.
- 4. An involuntary bankruptcy case, proceeding or other action commenced against Maker as debtor or seeking reorganization, liquidation, dissolution or composition of Maker's debts and a failure by Maker to obtain a dismissal of such case, proceeding or other action within sixty (60) days of its commencement.

The failure to exercise the option to accelerate the maturity of this Note upon the happening of any one or more of the events of default hereunder shall not constitute a waiver of the right of Payee to exercise the same or any other option at that time or at any subsequent time with respect to such uncured default or any other event of default hereunder. The remedies of Payee, as provided in this Note and any agreement executed by Maker to secure the repayment hereof, shall be cumulative and concurrent and may be pursued separately, successively or together as often as occasion therefor shall arise, at the sole discretion of Payee. The acceptance by Payee of any payment under this Note which is less than the payment in full of all amounts due and payable at the time of such payment shall not (i) constitute a waiver of or impair, reduce, release or extinguish any remedy of Payee or the rights of Payee to exercise the foregoing option or any other option granted to Payee or any other party in this Note, governing, guaranteeing or evidencing the Loan, at that time or at any subsequent time, or nullify any prior exercise of any such option, or (ii) impair, reduce, release, extinguish or adversely affect the obligations of any party liable under this Note as originally provided herein.

Maker agrees that it will maintain adequate records throughout the term of this Note, which records confirm Third Party's Annual Purchase Requirement (including any filter purchases made by Thrid Party) and the repayment, through the accumulation of the Gallon Credits, of the Principal Amount. At any reasonable time and upon reasonable notice, Payee

Page 3 of a 5 Page Promissory Note

Initialed for Identification

Exhibit A

CONFIRMATION OF LOAN MODIFICATION

ORIGIN	IAL				
	PAL AMOUNT: \$		LOAN #:	·	
		,			
1. On _	, 199_,_				_ (hereinafter
of Peni Promis	") executed a Promissory Nonzoil Products Company (hosory Note, Maker has defautowing options (check the app	iereinafter "Pei lted in its obli	nnzoil"). Unde gations thereur	er the terms of	the foregoing
	If the actual number of gapreceding annual period(s) less than eighty-five perent for the same option:	is greater than cent (85%), o	n or equal to s f the cumula	sixty percent (60% tive Annual Pu	%), but rchase
	a. Recalculate the Annu Purchase Term by calcu Third Party for the pr period during which the the number of such an the Annual Purchase Re	ulating the tota receding annua e default occur nual period(s),	l number of ga il period(s) (inc red) and dividir which number	llons purchased l luding the annu ng such number l shall thereafter l	oy al oy
	b. Reduce the then ou amount equal to the Purchase Requirement recalculation set forth Annual Purchase Requi subparagraph a. above,	e difference be for the Purch in subparagra irement for the	petween the c nase Term (exi uph a above) a e Purchase Terr	umulative Annu sting prior to the nd the cumulation of calculated und	al ne ve
	If the default under this N number of gallons of Pro- annual period(s) is greater eighty-five percent (85%), of the same annual period(s), accordance with the following	ducts purchase than or equal of the cumulate Maker may e	ed by Third Pa to sixty perce ive Annual Pur	arty for the pre nt (60%), but les chase Requireme	ceding s than ant for
	a. The Annual Purchase the actual quantity of annual period in which thereafter be considered remaining Purchase Teunder subparagraph b.	Products pure the default oc d to be the Ann erm (as such I	hased by Thire curred, which a nual Purchase R	d Party during th actual quantity w equirement for th	ne ill ne

b. The Purchase Term shall be extended by the number of years (rounded up to the next highest whole number) resulting from a fraction, the numerator of which shall be the difference between the

receipt requested, postage prepaid, addressed to Maker at the address set forth on Page _____ of this Note, or to such other address as Maker may from time to time designate by written notice to the holder hereof.

This Note is secured by, among other obligations of Maker to Payee, that certain Pennzoil Products Company Distributor Security Agreement (the "Security Agreement") executed Maker on or about the date of this Note, whereunder Maker has granted Payee a security interest in certain collateral located at the business address of Third Party for the purpose of securing the repayment of Maker's obligations hereunder.

If any payment which Payee receives hereunder from any Maker is subsequently recovered from Payee or repaid by Payee as a result of any bankruptcy, dissolution, reorganization, arrangement or liquidation proceeding (or proceedings similar thereto), Maker shall be liable upon this Note for the amounts of any such recovery or repayment as if Payee had not ever received the payment.

THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN OR ORAL AGREEMENTS BETWEEN THE PARTIES.

In the event this Note has been executed by Maker within a jurisdiction which allows Payee to obtain a court judgment without notice to Maker or other action by Payee, to the extent permissible under applicable law, Maker acknowledges and agrees with Payee's rights to take any such action and waives any notices applicable to such action.

Executed on the date first written herein.

Mays-SHedd Sales

By: (1) Strage

Name: Jett Shroyer

Title: TRESIdent

'Maker'

Maker's Address:

Mays-shedd Sales 2931 Bourber auc Dayton o 410 45414 Third Party's Facility Address:

ANOLUbe O+TROY

750 W. Main ST

TROY, Ohio 45373

total number of gallons represented by the original cumulative Annual Purchase Requirements for the Purchase Term and the actual number of gallons of Products purchased by Third Party for the annual period(s) preceding the default (inclusive of the annual period during which such default occurred), and the denominator of which shall be the Annual Purchase Requirement calculated under subparagraph a. above.

2. In accordance with the applicable option, M	laker and Pennzoil hereby agree that:						
a. The Annual Purchase Requirement shall be	a. The Annual Purchase Requirement to be applicable to the Promissory Note shall be						
b. The Purchase Term to be applicable	to the Promissory Note shall be						
period (as defined in the Promissory Note) option. A copy of this Confirmation of Loan Note for purposes of confirming the information	all be applicable from the first day of the annual during which Maker has exercised the foregoing Modification shall be attached to the Promissory ion contained herein. be effective as indicated in Paragraph 3 above.						
PENNZOIL PRODUCTS COMPANY							
Ву:	Ву:						
Name:	Name:						
Title:	Title:						
Date:	Date:						

PENNZOIL PRODUCTS COMPANY

DISTRIBUTOR SECURITY AGREEMENT

DATE:	4-26-96	· .	·	PRINCIPAL AN	MOUNT: \$_	
LOAN #:_						

THIS SECURITY AGREEMENT (herein so called), is hereby executed by the undersigned (hereinafter referred to as "Debtor") for the following purposes:

WHEREAS, Pennzoil Products Company ("Secured Party") has made a loan to Debtor in the Principal Amount stated above in accordance with Secured Party's Distributor Loaned Equipment Program (the "Program"), which loan is evidenced by that certain Distributor Promissory Note (the "Note") executed by Debtor in favor of Secured Party on or about the date of this Security Agreement; and

WHEREAS, under certain agreements between Debtor and Customer, Customer is required to purchase specific annual quantities of Secured Party's motor oil and other lubricant products for use and resale at the Premises; and

WHEREAS, Debtor has agreed to execute this Security Agreement for the purpose of granting Secured Party a first and superior security interest in and to the Collateral and to secure Debtor's repayment of the Note.

NOW, THEREFORE, pursuant to the above and for further good and valuable consideration, the Debtor does hereby grant to the Secured Party a first lien and security interest in the Collateral, together with all accessories which may hereafter at any time be placed in or added to, the Collateral. Said security interest is hereby granted to the Secured Party in order to secure the repayment of the Note and any and all other obligations or liabilities of the Debtor to the Secured Party, direct or indirect, absolute or contingent, now due or existing, or hereafter arising, all of which are referred to herein as the "Obligations".

WITNESSETH

The Debtor, in accordance with the above, does hereby covenant, warrant and agree with, on behalf of, and in favor of, the Security Party, as follows:

1. Debtor hereby represents and warrants that the Collateral has been acquired by Debtor and is located at the Premises.

- 2. The Debtor agrees to promptly notify the Secured Party of any change in the location of the Collateral, and Debtor will not remove, or consent to a removal of, the Collateral from the Premises without the written consent of the Secured Party.
- 3. Except for the security interest granted hereby, Debtor is the owner of the Collateral free and clear of any adverse lien, security interest, or encumbrance, including, without limitation, any such liens (including landlord's liens) in favor of Customer's landlord or such landlord's mortgagee at the Premises, if any. If requested by Secured Party, Debtor will obtain documentation from Customer's landlord, if any, and any party claiming or who may claim an interest in the Premises or any part thereof expressly acknowledging the first and superior interest of Secured Party in and to the Collateral. Debtor agrees that it will defend the Collateral against all claims and demands of all persons.
- 4. No Financing Statement covering any Collateral or any proceeds thereof is on file in any public office; Debtor authorizes Secured Party to file, in jurisdictions where this authorization will be given effect, a Financing Statement signed by the Secured Party describing the Collateral in the same manner as it is described herein; and from time to time at the request of Secured Party, or recording the same in all public offices deemed necessary or desirable by the Secured Party. Debtor further agrees to do such other acts as the Secured Party may request to establish and maintain a valid security interest in the Collateral, free of all other liens and claims whatsoever, to secure the payment of the Obligations, including, without limitation, deposit with Secured Party of any certificate of title issuable with respect to any of the Collateral and notation thereon of the security interest hereunder.
- 5. Unless otherwise specifically authorized by Secured Party, the Debtor will not sell, transfer, lease, or otherwise dispose of any of the Collateral or any interest therein nor allow the Customer to obtain any interest in the Collateral which would be adverse to the interest of Secured Party as established under this Security Agreement.
- 6. Debtor will at all times keep the Collateral insured against loss, damage, theft and such other risks as Secured Party may require in such amounts, with companies, under such policies, in such form, and for such periods, as shall be satisfactory to Secured Party. Each such policy shall indicate that Secured Party is an additional insured thereunder and provide that proceeds payable thereunder shall be payable to Secured Party as its interest may appear. Secured Party may apply any proceeds of such insurance which may be received by Secured Party toward payment of the Obligations, whether or not due, in such order of application as Secured Party may determine. Each policy shall provide for 10 days' written minimum cancellation notice to Secured Party; and a copy of each such policy or a certificate of insurance shall, if Secured Party requests, be deposited with Secured Party. Secured Party may act as attorney-in-fact, for Debtor in obtaining, settling and canceling such insurance and endorsing any drafts. In the event the Customer insures the Collateral as aforesaid, during the terms of its agreement with Debtor, then Debtor agrees to require appropriate evidence/certificates of insurance to establish proper and sufficient insurance coverage for the Collateral involved.
- 7. Debtor shall at all times keep the Collateral free from any adverse lien, other security interest, or encumbrance and in good order and repair and will not waste or destroy the Collateral or any part thereof. Debtor will not use the Collateral in violation of any statute or ordinance. Secured Party may examine and inspect the Collateral at any time, wherever located.
- 8. Debtor will pay, or cause to be paid, when due, any and all taxes, assessments, or license or permit fees of any nature relating to the Collateral or it's use, or relating to this Security Agreement or any notice evidencing this Obligation.

- 9. Debtor authorizes Secured Party to do all things required of Debtor herein, if Debtor fails to do same, or any of them, and charge all reasonable expenses in the furtherance of same to Debtor.
- 10. Debtor shall be in default under this Security Agreement upon the happening of any of the following events or conditions:
 - A. Any breach, failure to comply with, or default of any term, condition or covenant contained in the Note for which the security interest herein is given.
 - B. Failure of the Debtor to promptly enforce its rights, particularly the right of recapture, under any equipment loan agreement it may be a party to with Customer in the event of any breach of default of such equipment loan agreement by Customer.
 - C. Failure or omission to pay when due any Obligations, or installment thereof, or default in the payment or performance of, any obligation, covenant, agreement, or liability contained or referred to herein.
 - D. In the event any warranty, representation, or statement made or furnished to Secured Party by Debtor was false in any material respect when made or furnished.
 - E. Loss, theft, substantial damage, destruction, sale or encumbrance to all or any of the Collateral, or the making of any levy, seizure, or attachment thereof, or thereon.
 - F. If Debtor becomes insolvent or makes an assignment for the benefit of creditors, or any proceeding is instituted by or against Debtor alleging that Debtor is insolvent or unable to pay debts as they mature; or in the event of any entry of judgment against Debtor.
- 11. Upon the occurrence of any default referred to herein, or at any time thereafter. Secured Party may, at its option, declare all Obligations secured hereby, or any of them, immediately due and payable without demand or notice of any kind, unless otherwise required by applicable law. Secured Party shall have, and may exercise from time to time, any and all rights and remedies of a Secured Party under the Uniform Commercial Code, as same is now or hereinafter in effect within the jurisdiction wherein the Collateral is located, and/or available to it under any other applicable law. Upon demand of Secured Party, Debtor shall, at its expense, assemble the Collateral and make it available to the Secured Party at a convenient place acceptable to Secured Party; and Debtor shall promptly pay all costs incurred by Secured Party for the collection of any and all of the Obligations, and enforcement of its rights hereunder. including reasonable attorneys' fees and legal expenses or expenses of any repairs to any of the Collateral or to any realty or other property to which any of the Collateral may be affixed. Secured Party will give Debtor ten (10) days notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. Expenses of retaking, holding, preparing for sale, selling, or the like, shall include Secured Party's reasonable attorneys' fees and legal expenses. Upon disposition of any Collateral, Debtor shall be and remain liable for any deficiency; and Secured Party shall account to Debtor for any surplus, but Secured Party shall have the right to apply all or any part of such surplus (or to hold the same as a reserve against) all or any of the Obligations, whether or not

they, or any of the, be then due, in such order of application as Secured Party may from time to time elect.

- Failure of Secured Party to insist upon strict performance of any of the 12. warranties and covenants of this Security Agreement, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment for the future of any such warranties, covenants or options, but the same shall be and remain in full force and effect. No wavier by Secured Party of any default shall operate as a wavier of any other default or of the same default on a future occasion. No delay or omission of the party of Secured Party in exercising any right or remedy shall operate as a waiver thereof, and no single or partial exercise by Secured Party of any right or remedy shall preclude any other or further exercise thereof, or the exercise of any other right or remedy. The provisions of this Security Agreement are cumulative and in addition to the provisions of any Note secured by this Security Agreement. The singular pronoun, when used herein, shall include the plural. If this Security Agreement is not dated when executed by the Debtor, the Secured Party is authorized, without notice to the Debtor, to date this Security Agreement. All rights of Secured Party hereunder shall inure to the benefit of its successor and assigns; and all Obligations of Debtor shall bind the successors and assigns of Debtor.
- 13. All of the terms herein and the rights, duties and remedies of the parties shall be governed by the Uniform Commercial Code as presently in effect in the jurisdiction wherein the Premises is located or as hereinafter effective, as well as the default provisions contained herein. Any part of this Security Agreement contrary to the laws of the State having jurisdiction over the Premises shall not invalidate other parts or provisions herein.

IN WITNESS WHEREOF, this Security Agreement has been executed on the date set forth below, but shall be effective as of the date first written herein.

Mays-shedd Sales

By: A Maray

Name: Jett Shr

"Debtor"

Debtor's Address:

Mays-Shedd Sales 2931 Boulder ave Dayton OHO 45414

EXHIBIT A

LIST OF COLLATERAL AND ADDRESS WHERE LOCATED

750 w maw st Troy, OH1045373

See attached sheet

Somer hoest	Ohio 57				
277-9451 Sur- 13RIC	ARON SOLUTIONS OF		ante de propriese.	Product : Product	Type of
Reported by: bo/JMAN 15					Control Valve
Customer MAMS SHEDD SAMES C.		4			12. Hore
Address 2931 BOULDER ME					Pump (Air)
City DAM TON ONTO	CONST :- Cuested	AND A	ED St.	Cour Out	[] Pump (Manual)
* HT 275 H TANK ASSY		120	17 6000	() Grease	Recl
# 635 385 Correct Valve		207. [†] 3 31. 4 M	177 1 1/2		CI Swivel
# P297 010 FILTER/SEG		-	Down,	II costprouting	Tark
# 421 BANCAPONE 4:1 PUMP		- 300 BT -	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	[] Underchating	☑ \ir line Comp.
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1/2" Sin . Union!				L.	
1 miles desc				EY	
138 x 2 A18 14011				List of Trian	
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State in	.:: .::				
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2017/3	i.i	w. i. m. mja	on the grass, also		

(Print Name & Title) 3 19 96

PENNZOIL PRODUCTS COMPANY

DISTRIBUTOR LOANED EQUIPMENT AFFIDAVIT

	—			
	will or has provided the equipment described belo			
for use sole	ely in conjunction with the storing, handling, disp ad lubricating products at Customer's premises located	pensing and selling ted at AUTO L	ng of Pennzoil URE OF	
TROY	750 W. MAIN ST. TROY, UHIL) <u>45373</u>		
	for this equipment loan, Customer agreed to purch			
	Pennzoil motor oil and automatic transmission raterm of 3 years. By initialing h			
	ilso agreed that 100% of its gear lubricant and gre			
	nzoil branded products purchased from Pennzoil or			
agreement.	In exchange for this commitment, Distribute included in the list below, for the purpose of s			
	lubricants and greases.	toring, nanding,	dispensing, and	
,				
Customer a	lso agreed that a minimum of 85 percent (_ ts for the premises will be Pennzoil branded proc	_%) of its filter ((both oil and air	
	during the term of the agreement.	iucis purchascu i		
LOANEDE	QUIPMENT:	. ,		
Quantity		Model or Pa	art Number	
	TANK ASSY	# HT 275	•	
1	Reel Assy	# mc 530		
1	CONTROL Value	# 635383		
1.	FILTER Regulator	P 2 9221 - 610		
1	Balczaul 4:1 pump	umo 121		
	Dipe wire Accessorus			
		<u> </u>	****	
Customer h	as also agreed to prominently display the following	Pennzoil signs at	the premises:	
SIGNS:				
Quantity	Description	Sign Number	Inside/Outside	
1	PZI TEN Minute		outside	
2	Meno Boards	282 A	Inside	
1	5x3 oval sign	283	outsido	
		<u> </u>	<u> </u>	
1	OTIOTOAREN.	DICTDIBLETO	D	
AUTO L	CUSTOMER: LUBE OF TROY, INC MAY	DISTRIBUTO S-SHEDD	SALES CO.	
- v()	10000	O Claran		
By Jesep	th briggs, PRES By:	Journager.		
INE	DDADD DOECIDIANT IFEE	SUDOVEO	Does	

(Print Name & Title)

MARIE HERNANDEZ (713) 241-5075 SHELL OIL 910 LOUISIANA ST HOUSTON TX 77002

1.5 LBS LTR

1 OF 1

Print Label

SHIP TO

U S EPA REGION 5 713/2415075 MARSHA A ADAMS 77 WEST JACKSON SUPERFUND DIVISION

CHICAGO IL 60604-3511



IL 606 9-04



UPS NEXT DAY AIR

TRACKING #:

12 770 071 01 0008 6622



BILLING: P/P

Ship Oate, 12/07/12 Reference:

8// Nr.: 2900000750287 Reference 2: 2900000750287 PBE 0880 PBGRAPHIC 33 5V 10/2012